

FCC MAIL ROOM

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 SEP -6 P 3: 28

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Hysham Public Schools)
Hysham, Montana)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-142105

CC Docket No. 96-45

CC Docket No. 97-21 ✓

RECEIVED

ORDER

Adopted: August 29, 2001

Released: August 30, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by Hysham Public Schools (Hysham).¹ Hysham seeks review of a decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC), which denied Hysham's request to correct the Receipt Acknowledgement Letter (RAL) relating to their Funding Year 2 application for discounts.² For the reasons discussed below, we grant the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In

¹ Letter from Barbara Parker, Hysham Public Schools, Hysham, Montana, to Federal Communications Commission, filed August 3, 2000 (Request for Review). Section 54.719 (c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Letter from Schools and Libraries Division, Universal Service Administrative Company to Sally Vanhemelryck, Hysham Public Schools, Hysham, Montana, issued July 7, 2000 (Administrator's Decision on Appeal).

³ 47 C.F.R. §§ 54.502, 54.503.

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carriers with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵

3. Upon receipt and successful data entry of a FCC Form 471, SLD issues a RAL, which summarizes the applicant's funding requests.⁶ The applicant may make certain types of corrections to its request during the two-week period after SLD issues the RAL.⁷ Specifically, USAC's administrative practice, which is set forth on both its website and the Receipt Acknowledgement Letter, is to permit the applicant to correct data entry errors, change contact information, reduce the amount of requests included in an application and change the service provider identity number, if the original service provider has merged with or been acquired by the new service provider.⁸ USAC will also allow applicants to "unbundle" a funding request that incorrectly included services provided by multiple service providers or included services from more than one eligible service category, if materials supporting the original FCC Form 471 confirm the distinctions during the RAL correction period.⁹ Changes that increase the amount of support requested, or that request services not initially requested, are not permitted¹⁰. In order to submit a timely correction in Funding Year 2, allowable corrections must have been received by

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sally Vanhemelryck, Hysham Public Schools, Hysham, Montana, dated August 5, 1999 (Receipt Acknowledgement Letter).

⁷ Receipt Acknowledgement Letter at 3.

⁸ See www.sl.universalservice.org. Administration of the schools and libraries support mechanism is the responsibility of SLD under the oversight of the Schools and Libraries Committee of USAC. 47 C.F.R. § 54.705(a)(1) (setting forth the functions of the Schools and Libraries Committee) and 47 C.F.R. § 54.701(g)(i) (directing the Administrator to establish the Schools and Libraries Division, and setting forth its functions). Under the rules adopted in the Commission's *Eighth Reconsideration Order*, the Schools and Libraries Committee's functions include their authority to make decisions in how to administrate the schools and libraries program and ensure compliance with our rules. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal State Joint Board on Universal Service, Third Report and Order and Fourth Order on Reconsideration* in CC Docket No. 97-21 and *Eighth Order on Reconsideration* in CC Docket No. 96- 45, 13 FCC Rcd 25058, 25075, para. 31 (1998) (*Eighth Reconsideration Order*) (describing the functions of the Schools and Libraries Committee).

⁹ *Id.*

¹⁰ *Id.*

SLD "WITHIN TWO WEEKS OF RECEIVING THIS LETTER."¹¹

4. On April 3, 1999, Hysham filed a FCC Form 471 requesting support for telecommunications service, Internet access, and internal connections.¹² SLD issued Hysham a RAL on August 5, 1999, and according to Hysham, the RAL was received on August 13, 1999.¹³ After reviewing the RAL, Hysham requested that SLD "unbundle" a funding request on their application that incorrectly combined telecommunications services provided by their local and long distance service providers.¹⁴ The corrections were received by SLD on August 23, 1999, 18 days after the RAL was issued and 10 days after Hysham received the RAL.¹⁵ SLD denied Hysham's request to accept corrections because they were not received within the two-week time limit.¹⁶

5. As an initial matter, we find that Hysham received the RAL on August 13, 1999. We acknowledge that we are unable to verify the date of receipt by, for example, a confirmation receipt or postmark. SLD does not send RAL letters by return receipt and evidence of the postmark on the envelope would be insufficient since it would merely indicate the date that the letter was mailed, not the date of receipt. Nevertheless, Hysham provides a sworn affidavit substantiating that the RAL was received by Hysham on August 13, 1999.¹⁷ Moreover, given the distance between New Jersey and Montana, we believe that it is reasonable that Hysham received the RAL on the date it indicates, about a week after the letter was issued.¹⁸ Therefore, based on Hysham's affidavit, and the distance that the letter traveled, we accept into the record that Hysham received the RAL on August 13, 1999.

6. Based on the record, we grant Hysham's Request for Review. The plain language of the RAL indicates that Hysham had two weeks, from the date of receipt, to make corrections.¹⁹ Hysham states that they received the RAL on August 13, 1999, and SLD's records indicate that it received Hysham's corrections in response to the RAL on August 23, 1999. Therefore, SLD

¹¹ Receipt Acknowledgement Letter at 3. We note that for Year 4 funding, the RAL letter states "To notify us of the allowable corrections you wish to make, please note that the SLD must receive these corrections within 2 weeks of the date of this letter."

¹² FCC Form 471, Hysham Public Schools, Hysham, Montana, filed April 3, 1999.

¹³ See Receipt Acknowledgment Letter.

¹⁴ See Request to Unbundle Services, Sally Vanhemelryck, Hysham Public Schools, Hysham, Montana, to Schools and Libraries Division, Universal Service Administrative Company, filed August 23, 1999.

¹⁵ *Id.*

¹⁶ See Letter from Sally Vanhemelryck, Hysham Public Schools, Hysham, Montana, to Schools and Libraries Division, Universal Service Administrative Company, filed July 27, 2000.

¹⁷ See Affidavit of Sally Vanhemelryck in Support of Request for Review, filed August 23, 2001.

¹⁸ Correspondence from SLD is mailed from its Correspondence Unit in Whippany, New Jersey.

¹⁹ Receipt Acknowledgement Letter at 3.

received the request for corrections 10 days after Hysham received the RAL. As a result, we find that Hysham's request for corrections to the RAL was timely because the corrections were received within two weeks of receipt of the RAL.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the request for review filed by Hysham Public Schools on August 3, 2000, IS GRANTED and that its application IS REMANDED to SLD for further consideration in light of this decision.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau